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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,503	08/01/2001	Stefan Wahl	Q65395	3648

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EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/918,503

Applicant(s)

WAHL, STEFAN

Examiner

Jeffrey R. Swearingen

Art Unit

2145

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 8/22/05 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 5. Applicant's reply has overcome the following rejection(s): 35 U.S.C. 112 2nd with regard to claims 11, 14; 35 U.S.C. 101 with regard to claims 11, 12, and 16.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

The newly submitted drawings are acceptable as reviewed by the Examiner and the objection is withdrawn.

The objection to claim 14 is withdrawn.

The amended title is acceptable to the Examiner and the objection is withdrawn.

The rejection under 35 U.S.C. 112 2nd to claim 11 is withdrawn.

The rejection under 35 U.S.C. 112 2nd to claim 12 is maintained. Applicant has not shown how a terminal with a computer readable medium can also comprise items such as a telephone, a television set, a radio station, and a mobile radio unit.

The rejection under 35 U.S.C. 112 2nd to claim 14 is withdrawn.

The rejection over Hattori under 35 U.S.C. 102(e) is maintained. Hattori does teach "linking a service required by a customer or an application required by the customer to a QoS category selected by the customer, and supplying the required service or the required application to the customer with the QoS category selected by the customer." Hattori implements a "customizing operation for each user and thereby supplying the service information to the user". This is a customer selecting a QoS category. See also column 5, lines 32-52. See also column 6, lines 1-6. See also column 6, line 58 - column 7, line 23. See also column 10, lines 29-40. See also column 12, line 66 - column 13, line 21. The user further "links a service" in column 13, lines 33-55 and in column 13, line 66 - column 14, line 24. Also in column 14, lines 29-49 and column 15, lines 1-65, which both teaches linking a service to a QoS category and supplying the service with the QoS category. In regard to claim 14, Hattori as cited above does show "designating all services and applications with a QoS category, particularly in columns 14 and 15.

Applicant's arguments with respect to the 35 U.S.C. 103(a) rejections and the Yamamura, Yamato, and How Networks Work references are based upon Applicant's prior arguments regarding Hattori, which the Examiner has previously addressed. The Examiner still maintains that because How Networks Work teaches the state of the art in the 1970s, that it does qualify as prior art.


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER